



California Department of General Services Procurement Division



Interim Guidelines



Pursuant to
Executive Order
D-55-02

The Executive Order

Interim Guidelines

Actions Under Way

Preparing for Day 91

PRESENTATION OBJECTIVE

*To achieve
uniform understanding
and implementation of the
Interim Guidelines*

Executive Order D-555-02

Intent

COMPETITIVE PROCESS

To The Maximum Extent
Required by Law

- CMAS procurements
- Master Agreements
- Procurements without competitive bidding

Review of current state procurement processes

- *To identify necessary safeguards
and areas of improvement*

- **Cliff Allenby**
Department of Developmental Services Director
- **David Janssen**
Los Angeles County Chief Administrative Officer
- **Annette Porini, Chair**
Chief Deputy Director of Finance

Report of findings and
recommendations due to
the Governor within
90 days from the date of the
Executive Order (May 20, 2002)

No state contract or procurement greater than \$100,000 shall be executed unless awarded pursuant to a competitively bid process

Includes those bid under

- CMAS
- Any Master Service Agreement
- The Cal-Store Master Service Agreement

*Any state contract or procurement
in the amount of \$100,000 or less
must comply with interim
guidelines applicable to contracts
valued at less than \$100,000*

*Any state contract or procurement greater than \$100,000 and **NOT COMPETITIVELY BID** may **ONLY** be executed...*

- *To ensure the provision of essential services; or*
- *Where public health or safety so require; or*
- *In the case of an emergency as defined in Public Contract Code Section 1102; or*
- *To avoid financial loss to the state*

*And THEN ONLY pursuant to
interim guidelines applicable
to contracts over \$100,000*



Interim Guidelines



Interim Guidelines

STATE ADMINISTRATIVE MANUAL

MANAGEMENT MEMO

SUBJECT:

RESTRICTIONS REGARDING USE OF CMAS, MASTER
SERVICE AGREEMENTS AND NON-COMPETITIVELY BID
CONTRACTS DURING INTERIM REVIEW PERIOD

NUMBER

MM 02-12

DATE ISSUED:

MAY 28, 2002

EXPIRES:

UNTIL RESCINDED

REFERENCES:

EXECUTIVE ORDER D-55-02

ISSUING AGENCY:

DEPARTMENT OF
GENERAL SERVICES

It is the intent of Executive Order D-55-02 that competitive bidding processes will be employed to

<h1>MANAGEMENT MEMO</h1>	NUMBER: 62-12, ADDENDUM #1
SUBJECT: RESTRICTIONS REGARDING USE OF CMAS, MASTER SERVICE AGREEMENTS AND NON-COMPETITIVELY BID CONTRACTS DURING INTERIM REVIEW PERIOD CLARIFICATION OF SIGNATURE AUTHORITY AND ADDITION OF ATTACHMENT D	DATE ISSUED: JUNE 11, 2002 EXPIRES: UNTIL RESCINDED
REFERENCES:	ISSUING AGENCY: DEPARTMENT OF

Tightens Approval Requirements

Contracts \$100,000 or less and those greater than \$100,000. These are designated as Attachments A, B, and C, attached hereto. **Attachment D is added to identify categories pursuant to State Administrative Manual Section (SAM) 1233 that are exempt from this Management Memo. NOTE that this Attachment D is a modified listing, and there are certain constraints placed On the use of these categories.**

ATTACHMENT B AND ATTACHMENT C HAVE BEEN MODIFIED TO REFLECT THAT CMAS/MASTER APPROVALS OVER \$100,00 BUT LESS THAN \$500,00 REQUIRE

Attachment D
Management Memo 02-02
Addendum #1
(June 11, 2002)

Adds Attachment D to identify exempt procurement categories

community college, a foundation or auxiliary organization incorporated to support the universities and colleges, or a Joint Powers Agency.

- c. **Services for which the state has entered into a master service agreement;**
Note: *This is limited to those master contracts which have been competitively bid or which have been determined to be required for essential services and which have been established by a methodology that assures the state of a reasonable price for the goods/services offered. See the DGS Procurement web page at www.dgs.ca.gov/dg for a list of such approved contracts.*

Interim Guidelines for the
acquisition of goods and
services obtained through
the use of

CMAAS

Master Agreements

Non-Competitively Bid Acquisitions

*During the review period
established by
Executive Order D-55-02*

*What about acquisitions that
are not CMAS, Master
Agreements and Non-
Competitively Bid Awards?*

*They ARE NOT
subject to the Executive Order
and the Management Memo*

*They are to be processed
either by the Procurement
Division or by agencies under
their delegated authority,
following the delegation
guidelines*

*Non – IT contracts processed
by awarding department
subject to the EO and MM*

*IT contracts processed by PD
or by department under a
delegation from the PD*

*Are there any contracts
that can be
awarded without advertising
or competitive bidding?*

Yes

Attachment D
Management Memo 02-02
Addendum #1
(June 11, 2002)

The following contracts may be awarded without advertising or competitive bidding subject to the restrictions noted. The categories are either exempt by Statute, or based on a determination by DGS that competitive bidding is not Feasible (many of these were formerly referenced in State Administrative Manual Section 1233 and State Contracting Manual Section 5.80).

a. Emergency contracts which are necessary for the immediate preservation of life or state property.

b. Contracts for the work or services of a state, local or federal agency, the University of California, the California State University, a California community college, a foundation or auxiliary organization incorporated to support the universities and colleges, or a Joint Powers Agency.

c. Services for which the state has entered into a master service agreement;
Note: This is limited to those master contracts which have been competitively bid or which have been determined to be required for essential services and which have been established by a methodology that assures the state of a reasonable price for the goods/services offered. See the DGS Procurement web page at www.dgs.ca.gov/dp for a list of such approved contracts.

*What about the streamlined
procurement process
applicable to awards under
\$100,000 to Small Businesses
and DVBEs?*

- ✓ Two price quotations from two Certified Small Businesses or DVBEs if award is to a Certified Small Business or a Certified DVBE

Interim Guidelines

First: Clarification

A Change in "Language"

Sole Source Contract

Non-Competitively Bid Contract

Expanded Coverage

Master Agreement



- **Master Service Agreement**
- **Master Purchase Agreement**
- **Master Rental Agreement**
- **State Price Schedule**
- **Western States Contracting Alliance**
- **Cal-Store Master Purchase Agreement**

- CMAS and Master Agreements
- Non-Competitively Bid Contracts

CMAS and Master Agreements

IT Goods and Services & Non-IT Services

- Solicit and obtain offers from 3 suppliers
 - Including one small business (if available)
- If less than 3 offers received
 - Solicitation methods must be documented and included with contract report to DGS

- Variance of model contract terms permitted *ONLY* with DGS approval

DOLLAR LIMIT

IT Goods and Services

CMAS	\$500,000
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NO EXEMPTIONS

Master Agreements	\$500,000
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Lower dollar limits established by
existing agreements may further
reduce this maximum

DOLLAR LIMIT

Non-IT Services

CMAS	\$250,000
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NO EXEMPTIONS

Master Agreements	\$250,000
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NO EXEMPTIONS

MUST MEET THE CRITERIA
OF THE
EXECUTIVE ORDER

- Required to ensure the provision of essential services; or
- Where public health or safety so require; or
- In the case of an emergency as defined in Public Contract Code 1102; or
- To avoid financial loss to the state.

Attachment C

Of Management Memo

Procedures and Definitions regarding Executive Order D-55-02

1) Required approvals for non-competitively bid contracts \$100,000 or less and those greater than \$100,000 shall be limited to the following persons:

- a) Agency Secretaries or their immediate next ranking official, or
- b) For departments or other entities not reporting to an Agency Secretary, approval authority is limited to the highest two ranking executive officials.

2) Required approvals for CMAS and Master Agreement contracts exceeding \$100,000 shall be limited to the following persons:

- a) Department Director or their immediate next ranking official, or
- b) For departments or other entities not reporting to a Department Director, approval authority is limited to the highest two ranking executive officials.

3) Paragraph #6 of the Executive Order applies additional qualifying criteria in addition to those that are statutorily required. Approval of contracts exceeding \$100,000, as covered by the Executive Order, must contain documentation of facts that support the existence of any of the applicable criteria.

4) Definitions of Paragraph 6 Criteria

- a) Essential services

4) Definitions of Paragraph 6 Criteria

a) Essential services

Includes services determined to be critically necessary for the operation of the department or the delivery of services required to be provided by the department.

b) Required for Health and Safety

Goods or services determined as necessary to preserve, protect or promote public health, including persons under the care or custody of the state; or necessary to preserve, protect or promote public safety.

c) Emergency (Public Contract Code 1102)

A sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, property or essential public service.

(Note: In the event of an emergency, statute permits the immediate acquisition of necessary goods and services as needed, with necessary approvals and documentation to follow.)

d) Avoidance of financial loss to the state:

Goods and services necessary, as determined, to prevent the waste of state funds or resources, including but not limited to:

1. Failure to obtain will result in the loss of federal or other funding.
2. Failure to obtain will result in damage to or deterioration of state resources.
3. Failure to obtain will result in the interruption of essential state operations or programs.
4. Failure to obtain could expose the state to liability based on the risk of damage to the property of others.
5. Failure to obtain could expose the state to risk based on the harm to the public.
6. Failure to obtain could result in the imposition of additional payments, penalties or fines.

Definitions

4) Definitions of Paragraph 6 Criteria

a) Essential services

Includes services determined to be critically necessary for the operation of the department or the delivery of services required to be provided by the department.

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Goods or services determined as necessary to preserve, protect or promote public health, including persons under the care or custody of the state; or necessary to preserve, protect or promote public safety.

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d) Avoidance of financial loss to the state:

Goods and services necessary, as determined, to prevent the waste of state funds or resources, including but not limited to:

1. Failure to obtain will result in the loss of federal or other funding.
2. Failure to obtain will result in damage to or deterioration of state resources.
3. Failure to obtain will result in the interruption of essential state operations or programs.
4. Failure to obtain could expose the state to liability based on the risk of damage to the property of others.
5. Failure to obtain could expose the state to risk based on the harm to the public.
6. Failure to obtain could result in the imposition of additional payments, penalties or fines.

APPROVALS REQUIRED



Up To \$100,000



Non-IT Services

- CMAS over \$35,000
 - ✓ DGS/Procurement Division
- Masters over \$35,000
 - ✓ DGS/Office of Legal Services



\$100,000

IT Goods and Services

- ✓ Department Director or Immediate Next Ranking Official

AND

- ✓ Agency Secretary or Immediate Next Ranking Official

Non-IT Services

✓ Department Director or Immediate Next Ranking Official

AND

✓ Agency Secretary or Immediate Next Ranking Official

AND

At \$35,000 and up:

✓ CMAS: DGS/Procurement Division

✓ Masters: DGS/Office of Legal Services

For departments or other entities not reporting to a Department Director

- ✓ Approval authority limited to the highest two ranking executive officials

AND

- ✓ Agency Secretaries or their Immediate Next Ranking Official
 - *If no Agency Secretary, approval authority limited to the highest two ranking executive officials*

- If over \$100,000, contract must be reported to DGS within 5 working days after execution

- ✓ IT Goods and Services

Over \$100,000 to **\$500,000**

- ✓ Non-IT Services

Over \$100,000 to **\$250,000**

If GS \$Mart is used
for financing,
DGS/Procurement Division
approval required
before award

Commodities

Commodities

CMAS

Limited to \$100,000

NO EXEMPTIONS

Commodities Master Agreements

Competitively bid master contracts
for commodities are *EXEMPT* from
the Executive Order

If GS \$Mart is used
for financing,
DGS/Procurement Division
approval required
before award

Non-Competitively Bid Contracts

IT Goods and Services

- Emergency
- Only Source

Public Contract Code 12102

Non-IT Services

✓ *Must comply with
Public Contract Code 10340*

Commodities


- Emergency
- Only Source

*Public Contract Codes 10301
and 10302*

*ALL non-competitively bid
CMAS, Master Agreement and
Commodity contracts over
\$100,000 must meet the criteria
of the Executive Order*

- Required to ensure the provision of essential services; or
- Where public health or safety so require; or
- In the case of an emergency as defined in Public Contract Code 1102; or
- To avoid financial loss to the state.

APPROVALS REQUIRED

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Up To \$100,000



✓ Department Director or Immediate Next Ranking Official (No delegation)

AND

✓ Agency Secretary or Immediate Next Ranking Official (No delegation)

AND

✓ DGS/Procurement Division

- *If over \$25,000 for IT Goods and Services and Commodities*
- *If over \$5,000 for Non-It Services*



Over

\$100,000

✓ Department Director or Immediate Next Ranking Official (No delegation)

AND

✓ Agency Secretary or Immediate Next Ranking Official (No delegation)

AND

✓ DGS/Procurement Division

- At \$25,000 and up for *IT Goods and Services and Commodities*
- At \$5,000 and up for *Non-It Services*

AND

✓ Department of Finance

For departments or other entities not reporting to a Department Director

- ✓ Approval authority limited to the highest two ranking executive officials (No delegation)

AND

- ✓ Agency Secretaries or their Immediate Next Ranking Official (No delegation)
 - *If no Agency Secretary, approval authority limited to the highest two ranking executive officials (No delegation)*

Actions Under Way

INTERIM GUIDELINES IMPLEMENTATION TASKS

- Review of Non-Competitive Procurements by Department of Finance
- Review of CMAS and MSA Orders by DGS-PD
- Identification of Exempt Master Contracts

- Review of PD Internal Purchasing Practices
- Review of PD Internal Signature Authority Levels

- Establish Effective Communication Management
- Provide Training on Executive Order and Management Memo
- Develop Presentation on PD Acquisition Programs

- Hold Vetting Committee Meetings
- Track Necessary Clarifications to Executive Order and Management Memo

- Establish Agency Procurement Liaison
- Provide Consulting Services to Customers
- Establish Supplier Relationship Management to Address Supplier Concerns

- Assess Impact of the Executive Order and Management Memo on PD Acquisitions

What You Can Do

*Become thoroughly
familiar with Executive
Order D-55-02*

MANAGEMENT MEMO

NUMBER

02-12, ADDENDUM #1

SUBJECT:

RESTRICTIONS REGARDING USE OF CMAS, MASTER
SERVICE AGREEMENTS AND NON-COMPETITIVELY BID
CONTRACTS DURING INTERIM REVIEW PERIOD
CLARIFICATION OF SIGNATURE AUTHORITY AND
ADDITION OF ATTACHMENT D

DATE ISSUED:

JUNE 11, 2002

REFERENCES:

EXECUTIVE ORDER D-55-02

ISSUING AGENCY:

DEPARTMENT OF
GENERAL SERVICES

CHANGES/MODIFICATIONS TO THIS MANAGEMENT MEMO AS A RESULT OF THIS
ADDENDUM #1 ARE EFFECTIVE IMMEDIATELY. CHANGES ARE INDICATED IN BOLD.

It is the intent of Executive Order D-55-02 that competitive bidding processes will be employed to
The maximum extent required by law. The purpose of this Management Memo is to provide Interim
Guidelines for the acquisition of goods and services obtained through the use of CMAS, Master
Services Agreements and Non-Competitively Bid acquisition methods during the review period
Established by Executive Order D-55-02. Separate standards and processes are required for
Contracts \$100,000 or less and those greater than \$100,000. These are designated as Attachments
A, B, and C, attached hereto. **Attachment D is added to identify categories pursuant to State
Administrative Manual Section (SAM) 1233 that are exempt from this Management Memo.**
**NOTE that this Attachment D is a modified listing, and there are certain constraints placed
On the use of these categories.**

ATTACHMENT B AND ATTACHMENT C HAVE BEEN MODIFIED TO REFLECT THAT
CMAS/MASTER APPROVALS OVER \$100,00 BUT LESS THAN \$500,00 REQUIRE

*Access the Procurement
Division's Web Site on a
regular basis for the
latest information*

The Procurement Division's Web Site

www.dgs.ca.gov/pd



Preparing for Day 91

The Review Panel's
Findings and
Recommendations
Will Be Key

TAKE ADVANTAGE OF
THE OPPORTUNITY

TO PROVIDE
INPUTS TO THE PANEL

TO ENSURE THE
RIGHT REFORMS
ARE IN PLACE